

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2014 DEC 10 PM 3:02

14084-127

UNITED STATES OF AMERICA

v.

CASE NO. 8:14-CR- 512 T17 TGW

DAVID BROCK LOVELACE

18 U.S.C. § 371

31 U.S.C. § 5324(a)(3)

18 U.S.C. § 982 (forfeiture)

INDICTMENT

The Grand Jury charges:

General Allegations

At all times relevant to this Indictment:

A. The Medicare Program

1. The Medicare Program ("Medicare") was a federal health care program providing benefits, items and services (collectively "services") to persons age 65 or older or with certain disabilities (hereinafter "beneficiaries"). Medicare was administered by the United States Department of Health and Human Services ("HHS") through its agency, the Centers for Medicare & Medicaid Services ("CMS").

2. Part B of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items and services, including certain medically

necessary blood tests, urinalysis, genotyping, and tests on tissue specimens (together “clinical diagnostic laboratory services”), that are medically necessary and ordered by a licensed medical doctor or other licensed qualified health care provider.

3. In Florida, Medicare Part B’s insurance concerning clinical diagnostic laboratory services, and related health care benefits, items, and services was administered by First Coast Service Options, Inc. (hereinafter “First Coast”), pursuant to a contract with HHS. In Utah, Medicare Part B’s insurance concerning clinical diagnostic laboratory services, and related health care benefits, items, and services was administered by Noridian Healthcare Solutions, LLC (hereinafter “Noridian”), pursuant to a contract with HHS. Among First Coast’s and Noridian’s responsibilities, each received, adjudicated, and paid the claims of authorized providers seeking reimbursement for the cost of clinical diagnostic laboratory services, and other health care benefits, items, or services supplied or provided to Medicare beneficiaries.

4. Medicare was a “health care benefit program” as defined by Title 18, United States Code, Section 24(b), and a “Federal health care program” as defined by Title 42, United States Code, Section 1320a-7b(f).

B. Medicare Billing Procedures

5. A provider that sought to participate in Medicare Part B and bill Medicare for the cost of clinical diagnostic laboratory services, and related benefits, items, and services was required to apply for and receive a provider

number. The provider number allowed a provider to submit bills, known as "claims," to Medicare to obtain reimbursement for the cost of clinical diagnostic laboratory services, and related health care benefits, items, and services that a provider had rendered to beneficiaries.

6. To receive payment from Medicare, a provider, using its provider number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted providers, or a designated third-party biller, to submit a CMS-1500 electronically or by way of a paper claim form. The CMS-1500 required providers to provide certain important information, including: (a) the Medicare beneficiary's name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through First Coast and Noridian, generally would pay a substantial portion of the cost of the clinical diagnostic laboratory services, or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other licensed, qualified health care providers.

8. Payments under Medicare Part B were often made directly to the provider rather than to the patient/beneficiary. For this to occur, the beneficiary

assigned the right of payment to the health care provider. Once such an assignment took place, the provider would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

9. If the provider's Medicare claim was approved, a substantial portion of the total amount of the claim would be paid either by check or by wire transfer to an account designated by the provider.

10. Under Medicare rules and regulations, clinical diagnostic laboratory services, or related health care benefits, items, or other services must be medically necessary and ordered by a licensed doctor or other licensed, qualified health care provider in order to be reimbursed by Medicare.

C. Entities and Individuals

1. DBL Management

11. DBL Management, LLC ("DBL Management") was a Florida limited liability company established on or about August 11, 2011. DBL Management had a principal place of business at 4841 Artesian Road, Land O' Lakes, Florida.

12. Defendant DAVID BROCK LOVELACE was DBL Management's managing member.

13. DAVID BROCK LOVELACE established and maintained signature authority on a business bank account for DBL Management with SunTrust Bank, account number ending 1687.

14. DAVID BROCK LOVELACE established and maintained signature authority on a business bank account for DBL Management with SunTrust Bank, account number ending 6727.

2. Healthcare Marketing Florida

15. Healthcare Marketing Florida LLC ("Healthcare Marketing Florida") was a Florida limited liability company established on or about June 2, 2014. Healthcare Marketing Florida had a principal place of business at 2941 Ohio Street, Melbourne, Florida.

16. DALE B. DUBOIS was Healthcare Marketing Florida's managing member.

17. DALE B. DUBOIS established and maintained signature authority on a business bank account for Healthcare Marketing Florida with SunTrust Bank, account number ending 3750.

18. DALE B. DUBOIS established and maintained signature authority on a business bank account for Healthcare Marketing Florida with SunTrust Bank, account number ending 1945.

3. Clinical Laboratory Company A

19. Clinical Laboratory Company A was a company that provided clinical diagnostic laboratory services and billed Medicare, among others, for such services.

COUNT 1
(Conspiracy To Pay Health Care Kickbacks)
(18 U.S.C. § 371)

1. Paragraphs 1 through 19 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. Beginning in or around April 2014 and continuing through in or around November 2014, in the Middle District of Florida, and elsewhere, the defendant,

DAVID BROCK LOVELACE

did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is, to knowingly and willfully offer and pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A).

Purpose of the Conspiracy

3. It was a purpose and object of the conspiracy for DAVID BROCK LOVELACE, DALE B. DUBOIS, and their co-conspirators to unlawfully enrich themselves by (1) paying kickbacks and bribes to purported medical clinics in

exchange for Medicare beneficiaries' biological test samples and personal identifying information; (2) causing the submission of claims to Medicare for clinical diagnostic laboratory services performed on biological test samples of Medicare beneficiaries received in exchange for kickbacks; and (3) concealing the payment and receipt of kickbacks and bribes.

Manner and Means

The manner and means by which the Defendant and their co-conspirators sought to accomplish the purpose and object of the conspiracy included, among others, the following:

4. DAVID BROCK LOVELACE and DALE B. DUBOIS would establish and control shell entities and bank accounts for those entities that they would use to facilitate the payment of kickbacks, receipt of fraud proceeds, and concealment of unlawful activities;

5. DAVID BROCK LOVELACE, DALE B. DUBOIS, and their co-conspirators would pay cash kickbacks and bribes to purported medical clinics in exchange for Medicare beneficiaries' biological test samples and personal identifying information;

6. DAVID BROCK LOVELACE and DALE B. DUBOIS would travel from Pasco County, Florida and Brevard County, Florida, respectively, to Miami-Dade County, Florida to pay cash kickbacks and bribes and to receive biological test samples and personal identifying information of Medicare beneficiaries;

7. DAVID BROCK LOVELACE and DALE B. DUBOIS would cause biological test samples and personal identifying information of Medicare beneficiaries obtained as a result of kickbacks and bribes to be submitted to clinical laboratories for clinical diagnostic laboratory services that would be billed to Medicare;

8. DAVID BROCK LOVELACE would receive payment from Clinical Laboratory Company A based on the number of biological test samples submitted; and

9. DAVID BROCK LOVELACE, DALE B. DUBOIS, and their co-conspirators would perform acts and make statements to hide and conceal, and cause to be hidden and concealed, the purposes of, and the acts done in furtherance of, said conspiracy.

Overt Acts

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the conspirators committed and caused to be committed in the Middle District of Florida and elsewhere at least one of the following overt acts, among others:

1. On or about June 2, 2014, DALE B. DUBOIS established Healthcare Marketing Florida as a limited liability company in Florida.

2. On or about June 13, 2014, DALE B. DUBOIS opened a bank account at a SunTrust Bank branch in the name of Healthcare Marketing Florida, account number ending 3750.

3. On or about July 2, 2014, DAVID BROCK LOVELACE opened a bank account at a SunTrust Bank branch in the name of DBL Management, account number ending 6727.

4. On or about July 2, 2014, DAVID BROCK LOVELACE caused check number 9000, from Clinical Laboratory Company A, in the amount of \$120,000, to be deposited into DBL Management's SunTrust Bank account ending 6727.

5. On or about September 4, 2014, DALE B. DUBOIS caused the deposit of \$6,200 into a Bank of America bank account in the name of Cooperating Witness 1 ("CW1").

6. On or about October 29, 2014, DAVID BROCK LOVELACE met CW1 at a coffee shop in Miami-Dade County, Florida and counted the number of biological test samples CW1 had picked up from four purported medical clinics.

7. On or about October 29, 2014, DAVID BROCK LOVELACE signaled to DALE B. DUBOIS, who had arrived at the coffee shop, that there were 58 biological test samples.

8. On or about October 29, 2014, DALE B. DUBOIS gave CW1 \$4,600 in cash that would be used to pay kickbacks to the four purported medical clinics that had provided the biological test samples.

9. On or about October 29, 2014, DALE B. DUBOIS gave CW1 check number 1251, in the amount of \$1,200, payable to CW1 in CW1's true name,

from Healthcare Marketing Florida's SunTrust Bank account, account number ending 3750.

10. On or about October 29, 2014, DALE B. DUBOIS received 58 biological test samples from CW1 who had received them from the four purported medical clinics.

11. On or about October 30, 2014, personnel at each of the four purported medical clinics that had provided the 58 biological test samples accepted the kickback payments from CW1.

12. On or about November 6, 2014, DALE B. DUBOIS met CW1 at a coffee shop in Miami-Dade County, Florida where DUBOIS gave CW1 \$2,100 in cash that would be used to pay a kickback to a purported medical clinic that had provided biological test samples.

13. On or about November 6, 2014, DALE B. DUBOIS gave CW1 check number 1265, in the amount of \$1,200, payable to CW1 in CW1's true name, from Healthcare Marketing Florida's SunTrust Bank account, account number ending 3750.

14. On or about November 6, 2014, DALE B. DUBOIS received 21 biological test samples from CW1 who had received them from a purported medical clinic.

15. On or about November 7, 2014, personnel at the purported medical clinic that had provided the 21 biological test samples accepted the kickback payment from CW1.

All in violation of Title 18, United States Code, Section 371.

COUNT 2
(Structuring to Avoid Reporting Requirements)
(31 U.S.C. § 5324(a)(3))

1. Paragraphs 1 through 19 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. A "currency transaction report" ("CTR") is a report that is submitted on United States Department of Treasury ("Treasury"), Financial Crimes Enforcement Network Form 104. A domestic financial institution is required by federal law to file a CTR with Treasury for each financial transaction that involves United States currency in excess of \$10,000. Such financial transactions include deposits, withdrawals, or exchanges of currency, or other transactions involving the physical transfer of currency from one person to another.

3. On or about July 3, July 7, July 8, July 10, July 11, July 17, and July 18, 2014, in the Middle District of Florida and elsewhere, the defendant,

DAVID BROCK LOVELACE,

did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and any regulation prescribed thereunder, structure, assist in structuring, and cause to be structured the

following transactions at SunTrust Bank, a domestic federally-insured financial institution:

Approximate Date	Transactions
July 3, 2014	\$9,000 over-the-counter withdrawal
July 7, 2014	\$4,360 over-the-counter withdrawal
July 8, 2014	\$4,625 over-the-counter withdrawal
July 10, 2014	\$9,000 over-the-counter withdrawal
July 11, 2014	\$9,000 over-the-counter withdrawal
July 17, 2014	\$4,000 over-the-counter withdrawal
July 17, 2014	\$5,000 over-the-counter withdrawal
July 18, 2014	\$3,800 over-the-counter withdrawal
July 18, 2014	\$4,845 over-the-counter withdrawal

In violation of Title 31, United States Code, Sections 5324(a)(3) and 5324(d), Title 31, Code of Federal Regulations, Part 103, and Title 18, United States Code, Section 2.

FORFEITURE

1. The allegations contained in this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture.

2. Upon conviction of conspiracy to violate Title 42, United States Code, Section 1320a-7b(b), as alleged in Count 1 of this Indictment, the

defendant, DAVID BROCK LOVELACE, pursuant to Title 18, United States Code, Section 982(a)(7), shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

3. Upon conviction of a violation of Title 31, United States Code, Section 5324, as alleged in Count 2 of this Indictment, the defendant, DAVID BROCK LOVELACE, shall forfeit to the United States, pursuant to Title 31, United States Code, Section 5317(c)(1), all property, real or personal, involved in the offense and any property traceable thereto.

4. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,


it is the intent of the United States of America to seek forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 31, United States Code, Section 5317(c)(1).

A TRUE BILL,

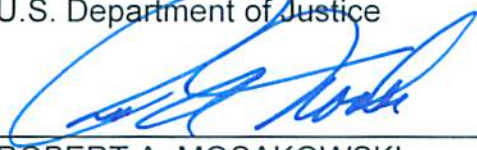


FOREPERSON

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FORM OBD-34
APR 1991

No. 8:14-Cr-

UNITED STATES DISTRICT COURT
Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA

vs.

DAVID BROCK LOVELACE

INDICTMENT

Violations:

18 U.S.C. 371
31 U.S.C. 5324(a)(3)

A true bill,

Came Miller

Foreperson

Filed in open court this 10th day

of December, 2014.

Clerk

Bail \$

FILED

2014 DEC 10 PM 6:09

CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA